

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 15<sup>th</sup> day of February, two thousand twelve,

PRESENT:

PETER W. HALL,  
DEBRA ANN LIVINGSTON,  
DENNY CHIN,  
*Circuit Judges.*

ZHENHUA HUANG,  
*Petitioner,*

v.

11-187-ag  
NAC

ERIC H. HOLDER, JR., UNITED STATES  
ATTORNEY GENERAL,  
*Respondent.*

FOR PETITIONER: Tina Howe, New York, New York.

FOR RESPONDENT: Tony West, Assistant Attorney General; Linda S. Wernery, Assistant Director; Lindsay B. Glauner, Trial Attorney, Office of Immigration Litigation, Civil Division, United States Department of Justice, Washington, D.C.

1           UPON DUE CONSIDERATION of this petition for review of a  
2 Board of Immigration Appeals ("BIA") decision, it is hereby  
3 ORDERED, ADJUDGED, AND DECREED that the petition for review  
4 is DENIED.

5           Zhenhua Huang, a native and citizen of the People's  
6 Republic of China, seeks review of a December 21, 2010,  
7 decision of the BIA reversing the May 7, 2009, decision of  
8 immigration judge ("IJ") George T. Chew, granting his  
9 application for asylum, and denying his application for  
10 withholding of removal and relief under the Convention  
11 Against Torture ("CAT"). *In re Zhenhua Huang*, No. A088 379  
12 306 (B.I.A. Dec. 21, 2010), *rev'g* No. A088 379 306 (Immig.  
13 Ct. N.Y. City May 7, 2009). We assume the parties'  
14 familiarity with the underlying facts and procedural history  
15 of this case.

16           Under the circumstances of this case, we review only  
17 the decision of the BIA. *See Yan Chen v. Gonzales*, 417 F.3d  
18 268, 271 (2d Cir. 2005). The applicable standards of review  
19 are well-established. *See* 8 U.S.C. § 1252(b)(4)(B); *see*  
20 *also Yanqin Weng v. Holder*, 562 F.3d 510, 513 (2d Cir.  
21 2009). Because Huang has failed to sufficiently challenge  
22 the BIA's denial of CAT relief before this Court, we deem

1 any such arguments waived. *See Yueqing Zhang v. Gonzales*,  
2 426 F.3d 540, 541 n.1, 545 n.7 (2d Cir. 2005).

3 **I. Family Planning Claim**

4 Substantial evidence supports the BIA's determination  
5 that Huang failed to establish his eligibility for relief  
6 based on his claim of other resistance to China's family  
7 planning policy. As Huang acknowledges, the BIA correctly  
8 concluded that he was not eligible for asylum solely on the  
9 basis of his wife's forced abortion. *See Shi Liang Lin v.*  
10 *U.S. Dep't of Justice*, 494 F.3d 296, 309-310 (2d Cir. 2007).  
11 Nevertheless, even though Huang was not *per se* eligible for  
12 asylum based on his wife's forced abortion, he could still  
13 qualify for relief by demonstrating that: (1) he engaged in  
14 "other resistance" to the family planning policy; and (2) he  
15 suffered harm rising to the level of persecution or has a  
16 well-founded fear of suffering such harm as a direct result  
17 of his resistance. *See id.* at 313; 8 U.S.C. § 1101(a)(42);  
18 *Matter of J-S-*, 24 I. & N. Dec. 520, 523 (A.G. 2008).

19 In this case, the BIA did not err in finding that Huang  
20 failed to demonstrate that he was persecuted based on his  
21 other resistance to the family planning policy because his  
22 minor beating, absent aggravating factors such as detention

1 or resulting injuries, did not rise to the level of  
2 persecution. See *Beskovic v. Gonzales*, 467 F.3d 223, 226  
3 n.3 (2d Cir. 2006). Contrary to Huang's argument, the BIA  
4 properly considered the context of the beating in making  
5 this finding. See *id.* Moreover, the BIA did not err in  
6 relying on Huang's hospital report to find that he did not  
7 sustain injuries as a result of the beating when he did not  
8 offer proof to the contrary. See *Xiao Ji Chen v. U.S. Dep't*  
9 *of Justice*, 471 F.3d 315, 342 (2d Cir. 2006) (the weight to  
10 be accorded to documentary evidence lies largely within the  
11 agency's discretion).

12 The BIA also reasonably determined that Huang failed to  
13 establish that his fear of being imprisoned, sterilized, and  
14 fined if he returned to China was objectively reasonable  
15 because his similarly situated wife had remained in China  
16 without being subjected to imprisonment or abuse, and he had  
17 not yet violated the family planning policy by having a  
18 second child. See *Melgar de Torres v. Reno*, 191 F.3d 307,  
19 313 (2d Cir. 1999) (finding applicant's claim of well-  
20 founded fear weakened when his mother and daughters  
21 continued to live in his native country); *Jian Xing Huang v.*  
22 *INS*, 421 F.3d 125, 129 (2d Cir. 2005) (per curiam) ("In the  
23 absence of solid support in the record for [an applicant's]

1     assertion that he will be [persecuted], his fear is  
2     speculative at best."). Huang also failed to provide proof  
3     that any fine imposed would amount to economic persecution.  
4     *See Guan Shan Liao v. U.S. Dep't of Justice*, 293 F.3d 61, 70  
5     (2d Cir. 2002). Substantial evidence therefore supports the  
6     BIA's determination that Huang failed to demonstrate past  
7     persecution or a well-founded fear of persecution based on  
8     his other resistance to China's family planning policy. *See*  
9     8 U.S.C. § 1252(b)(4)(B); *Yanqin Weng*, 562 F.3d at 513.

## 10    **II. Political Opinion Claim**

11         Huang argues that he demonstrated eligibility for  
12     asylum and withholding of removal based on his opposition to  
13     a corrupt village leader. Asylum eligibility requires that  
14     the persecution an applicant suffered or fears be on account  
15     of his race, religion, nationality, political opinion, or  
16     particular social group. 8 U.S.C. § 1101(a)(42). Although  
17     retaliation for opposition to government corruption may  
18     constitute persecution on account of a political opinion, a  
19     persecutor's suppression of an individual's challenge to  
20     isolated, aberrational acts of greed will not. *Yueqing*  
21     *Zhang*, 426 F.3d at 548. Here, Huang testified that the town  
22     government ordered the corrupt village leader to return the

1     extorted monies to his employer and apologize. Because the  
2     village leader committed extortion without permission or  
3     acquiescence by the government, the BIA reasonably found  
4     that Huang's opposition to the leader's practices did not  
5     constitute a political opinion. See *id.*

6             The BIA also reasonably found speculative that the  
7     village leader would retaliate against Huang based on a  
8     protected ground, and, consequently, that Huang did not  
9     establish a well-founded fear of future persecution. *Jian*  
10    *Xing Huang* , 421 F.3d at 129. Accordingly, substantial  
11    evidence supports the BIA's determination that Huang did not  
12    establish eligibility for asylum or withholding of removal  
13    on account of his political opinion. See 8 U.S.C.  
14    § 1252(b)(4)(B); *Yanqin Weng*, 562 F.3d at 513.

15            For the foregoing reasons, the petition for review is  
16    DENIED. As we have completed our review, any stay of  
17    removal that the Court previously granted in this petition  
18    is VACATED, and any pending motion for a stay of removal in  
19    this petition is DISMISSED as moot. Any pending request for  
20    oral argument in this petition is DENIED in accordance with

1 Federal Rule of Appellate Procedure 34(a)(2) and Second  
2 Circuit Local Rule 34.1(b).<sup>1</sup>

3 FOR THE COURT:  
4 Catherine O'Hagan Wolfe, Clerk  
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<sup>1</sup> We note our concern with the poor quality of the brief filed by Huang's counsel, Tina Howe. The brief contained a number of substantive, grammatical, and typographical errors, including: (1) mischaracterizing the extent and nature of the BIA's reliance on *In re T-Z-*, 24 I. & N. Dec. 163 (B.I.A. 2007), and *Beskovic v. Gonzales*, 467 F.3d 223 (2d Cir. 2006); and (2) failing to provide citations or providing incomplete citations (providing incorrect citation for *Haitian Refugee Center v. Smith*, and not providing pincites for *In re T-Z-*). Since Howe has already been warned about her deficient briefing, see, e.g., *Mei Juan Lin v. U.S. Att'y Gen.*, 278 F. App'x 37, 39 n.1 (2d Cir. 2008) (unpublished opinion); *Su Ying Wen v. U.S. Att'y Gen.*, 309 F. App'x 427, 429 n.3 (2d Cir. 2008) (unpublished opinion), we refer the present matter to this Court's Grievance Panel.